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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/876,156	06/08/2001	Gunter A. Gallas	034806-5016	6713
44702	7590	08/23/2004	EXAMINER	
OSTRAGER CHONG FLAHERTY & BROITMAN PC 250 PARK AVENUE, SUITE 825 NEW YORK, NY 10177			BENENSON, BORIS	
			ART UNIT	PAPER NUMBER
			2836	

DATE MAILED: 08/23/2004

Notice of Fee Increase on October 1, 2004

If a reply to a "Notice of Allowance and Fee(s) Due" is filed in the Office on or after October 1, 2004, then the amount due will be higher than that set forth in the "Notice of Allowance and Fee(s) Due" because an increase in fees effective on October 1, 2004 is anticipated. See Revision of Patent Fees for Fiscal Year 2005; Proposed Rule, 69 Fed. Reg. 25861, 25863, 25864 (May 10, 2004).

The current fee schedule is accessible from WEB site (<http://www.uspto.gov/main/howtofees.htm>).

If the fee paid is the amount shown on the "Notice of Allowance and Fee(s) Due" but not the correct amount in view of the fee increase, a "Notice of Pay Balance of Issue Fee" will be mailed to applicant. In order to avoid processing delays associated with mailing of a "Notice of Pay Balance of Issue Fee," if the response to the Notice of Allowance is to be filed on or after October 1, 2004 (or mailed with a certificate of mailing on or after October 1, 2004), the issue fee paid should be the fee that is required at the time the fee is paid. See Manual of Patent Examining Procedure (MPEP), Section 1306 (Eighth Edition, Rev. 2, May 2004). If the issue fee was previously paid, and the response to the "Notice of Allowance and Fee(s) Due" includes a request to apply a previously-paid issue fee to the issue fee now due, then the difference between the issue fee amount at the time the response is filed and the previously-paid issue fee should be paid. See MPEP Section 1308.01.

Effective October 1, 2004, 37 CFR 1.18 is proposed to be amended by revising paragraphs (a) through (c) to read as set forth below. As stated above, the final fee may be a different amount, and applicant should check the WEB site given above when paying the fee.

Section 1.18 Patent post allowance (including issue) fees.

- (a) Issue fee for issuing each original or reissue patent, except a design or plant patent:
- By a small entity (Sec. 1.27(a))..... \$670.00
 - By other than a small entity..... \$1,340.00
- (b) Issue fee for issuing a design patent:
- By a small entity (Sec. 1.27(a))..... \$245.00
 - By other than a small entity..... \$490.00
- (c) Issue fee for issuing a plant patent:
- By a small entity (Sec. 1.27(a))..... \$325.00
 - By other than a small entity..... \$650.00

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Notice of Allowability

Application No.

09/876,156

Examiner

Boris Benenson

Applicant(s)

LEOPOLD ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 07.12.2004.
2. ☒ The allowed claim(s) is/are 1-3,5-11,14,16-24 and 26-40.
3. ☒ The drawings filed on 08 June 2001 and 03 November 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

Detailed Actions

Response to the arguments

1. Applicant's argument that desirability of the modification should be suggested in the prior art is not convincing, because:

"In determining the propriety of the Patent Office case for obviousness in the first instance, it is necessary to ascertain whether or not the reference teachings would appear to be sufficient for one of ordinary skill in the relevant art having the reference before him to make the proposed substitution, combination, or other modification." *In re Linter*, 458 F.2d 1013, 1016, 173 USPQ 560, 562 (CCPA 1972).

Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. "The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art." *In re Kotzab*, 217 F.3d 1365, 1370, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000).

A motivation "it will prevent from connecting a power source to a load without the ground fault protection available until malfunction of the interrupter is corrected" would appear to be sufficient for one of ordinary skill in the relevant art having the reference before him.

2. Applicant's argument that "proposed combination does not yield the invention recited in independent claim 1" without change principle of operation of the prior art is pervasive.

If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims prima facie obvious. In re Ratti, 270 F.2d 810, 123 USPQ 349 (CCPA 1959).

Rejections of Claims 1,3,6 and 7 and objections to Claims 2 and 5 are withdrawn.

Allowable Subject Matter

3. Claims 1-3, 5-11, 14. 16-24 and 26-40 are allowed.

The following is an examiner's statement of reasons for allowance:

4. Independent Claim 1 is allowable because none of the prior art of record disclose a circuit interrupter comprising bistable latching relay configured such that a state of the relay can be changed only when circuit interrupter is operational in combination with the other claim limitations.

5. Claims 2-3, 5-7 and 17-20 are dependent on allowable Claim 1 and therefore allowable.

6. Independent Claims 8, 21, 29 and 36 are allowable because none of the prior art of record disclose a circuit interrupter that upon detection of the simulated ground fault (detection circuit is operational) change its state to open when previously first circuit was in close state or change its state to close when previously first circuit was in open state in combination with the other claim limitations.

7. Claims 9-11, 14, 16, 22-24, 26-28, 30-35 and 37-40 are dependent on allowable Claims 8, 21, 29 and 36 and therefore allowable.

8. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

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fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Contact information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Boris Benenson whose telephone number is (571) 272-2048. The examiner can normally be reached on M-F (8:20-6:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Sircus can be reached on (571) 272-2800 x 36. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Boris Benenson
Examiner
Art Unit 2836

B.B.

Stephen W. Jackson
8-20-04

STEPHEN W. JACKSON
PRIMARY EXAMINER